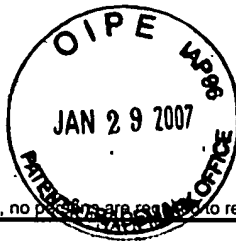


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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

930007-2192

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on January 23, 2007

Signature

Typed or printed name Ronald R. Santucci

Application Number

10/717,859

Filed

November 19, 2003

First Named Inventor

Dana EAGLES

Art Unit

1751

Examiner

Preeti KUMAR

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. 28,988
Registration number

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

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212-588-0800

Telephone number

January 23, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PRE-APPEAL BRIEF ARGUMENTS



Claims 1-56 are pending in this application. Claims 1- 25 have been withdrawn from consideration and claims 26-56 are rejected in the Final Office Action mailed August 24, 2006 (the "Office Action").

I. REASONS FOR THE REQUEST

Initially, Applicant respectfully disagrees with the Examiner's argument in the Advisory Action mailed on January 19, 2006 (the "Advisory Action") that the amendment submitted after the final Office Action is simply a rehash of the previously submitted arguments and that the claim limitation added to claim 1 is also a rehash of the limitation listed on the previous line. Applicant respectfully submits that the added limitation attempts to further clarify the difference between the inventive fabric of the instant invention and a conventionally "woven" fabric.

Applicant respectfully requests the Panel to consider the following arguments in conjunction with the claim amendments, which were both previously presented.

II. THE CLAIM REJECTIONS UNDER 35 U.S.C. §102(b) & 35 U.S.C. § 103(a)

Claims 26-56 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 5,888,915 to Denton et al. ("Denton").

As recited in revised claim 26, the instant invention is directed to:

A textile structure made in a manner comprising the steps of:
spiral winding machine direction (MD) yarns to form a system having a defined width; and
depositing a pattern of cross machine direction (CD) elements onto said system of MD yarns; wherein said CD elements are formed while being deposited onto said system of MD yarns.
(Emphasis added).

Based on the Examiner's statements in the Advisory Action, Applicant believes that the Examiner has misunderstood the meaning of the terms "spiral winding" and "depositing a pattern of CD elements." The Examiner is referring to the fabric shown in Figs. 4 and 5 of Denton and arguing that the trait of weaving, i.e., yarn filaments being deposited orthogonally, encompasses the spiral winding MD yarns and depositing a pattern of CD elements of the present invention. In response, Applicant respectfully directs the Examiner's attention to withdrawn claim 22 where it succinctly explains the "spiral winding" process. Specifically, spirally winding a system of MD yarns typically involves first and second rolls mounted horizontally and being parallel to each other where a turn around means is positioned in parallel between the first and second rolls and in the plane defined by the top surfaces of the two rolls. The turn around herein includes a first and second row of pins, whereby a yarn attached to a first pin at one end of the first pin row is unwound orthogonal to the rolls, initially contacting the top of the first roll and then spiraling around the bottom of the first roll, the yarn being further unwound orthogonal to the rolls so as to first contact the bottom of the second roll and then spiraling around the top of the second roll, the yarn being further unwound orthogonal to the rolls and then looping around a second pin at one end of the second pin row. The yarn is further unwound toward the second roll in a similar fashion so that the spiral winding is repeated until a system of MD yarns of a desired width is formed. *Instant Application*, ¶¶ [0024] to [0027].

As to the deposition of CD elements, the specification clearly provides support wherein it recites that the CD pattern is achieved, for example, by controlling the deposition of the CD elements 40 onto the MD yarn system 42, such as by speeding up or slowing down the delivery

of the polymer so to leave more or less polymer in certain areas. *Id.* at ¶ [0023]. The specification further discloses that one of the means of creating a system of CD elements 40 is by utilizing a polymer deposition device such as a piezo jet or jets dispensing a curable polymer in a CD direction onto and between the MD yarns 42. The polymer is subsequently cured which results in a solid system of CD elements 40. *Id.* at ¶ [0031]. Therefore, Applicant respectfully submits that Denton fails to teach or disclose “spiral winding” or the “deposition of a pattern of CD elements” as recited in the instant claims.

Further, in the Office Action, claims 26-35, 39-42, and 44-56 are rejected under § 102(b) as allegedly being anticipated by or, in the alternative, under § 103(a) as allegedly being obvious over U.S. Patent No. 5,360,656 to Rexfelt et al. (“Rexfelt”).

According to the Examiner’s comments with respect to Rexfelt, any woven fabric would be covered by the claimed limitation of the present invention. The Examiner is comparing the placing of spiral turns in different layers at an angle or crosswise fashion in Rexfelt with “depositing a pattern of CD elements” of the present invention. Applicant submits that depositing a pattern of CD elements, as explained above, is creating or forming the CD elements as they are being deposited, which is done by utilizing a polymer deposition device such as a piezo jet or jets that dispense a curable polymer in a CD direction directly onto and between the MD yarns. Subsequent curing of the polymer results in a solid system of CD elements. Accordingly, Applicant respectfully submits that Rexfelt fails to teach or disclose forming while depositing a pattern of CD elements as claimed.

Lastly, claims 26-56 are also rejected under § 102(b) as allegedly being anticipated by or, in the alternative, under § 103(a) as allegedly being obvious over U.S. Patent Application Publication No. 2002/0139503, now U.S. Patent 6,491,794, to Davenport (“Davenport”).

As to Davenport, merely because the warp and weft yarns of its fabric strip make an angle and do not align with the MD or CD, it cannot be said that Davenport teaches depositing a pattern of CD elements as recited in the instant claims. Similar to Rexfelt, Davenport also fails to teach or disclose forming while depositing a pattern of CD elements as explained in the instant invention.

For at least the foregoing reasons, because Denton, Rexfelt and Davenport, either alone or in combination fail to teach or suggest each and every limitation of revised independent claim 26, Applicant respectfully submits that claim 26 patentably distinguishes over the relied upon portions of the cited references and is therefore allowable. Further, claims 27-56, which depend from claim 26 are allowable as well.